



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/01/01	Bill No:	SB 1114
Tax:	Bradley Burns	Author:	Brulte
Board Position:		Related Bills:	

BILL SUMMARY

This bill would specify the allocation method of the 1¼ percent local sales tax on concrete sales.

ANALYSIS

Current Law

Under existing law, the Board administers the Bradley-Burns Uniform Local Sales and Use Tax Law, which authorizes counties to impose a local sales and use tax of 1¼ percent on tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under current law, cities are authorized to impose a sales and use tax rate of up to 1 percent. The city sales and use tax rate is credited against the county rate so that the combined rate does not exceed 1¼ percent. (Most city ordinances provide for a city tax rate equaling one percent; however, there are several cities that have ordinances providing for a small fraction less than 1 percent).

Of the 1¼ percent Bradley-Burns local tax rate, the ¼ percent portion is allocated to the county in which the sale or use of the property occurred for purposes of funding county transportation projects.

Section 7205 of the Bradley-Burns law specifies the “place of sale” for purposes of the local sales tax. Under this section, in general, all retail sales in California are consummated at the place of business of the retailer. **If a retailer has only one place of business** in California, the local sales tax derived from sales consummated at that place of business is transmitted by the Board to the city, county, or city and county in which the retailer’s place of business is located. If title to the property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside the city, county, or city and county in which the retailer’s place of business is located, or that the property sold is never within the city, county, or city and county in which the retailer’s place of business is located. Therefore, if a concrete batch plant in California has only one place of business, the local sales tax derived from the sale of concrete by that manufacturer would be transmitted to the city, county, or city and county in which the retailer’s place of business is located. *This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.*

county in which the plant is located, regardless of the fact that the purchaser takes title to the concrete at a location outside of the city, county, or city and county.

If a retailer has more than one place of business in the State, the place or places at which the retail sales are consummated for purposes of allocating the local sales tax is determined in accordance with regulations adopted by the Board.

Regulation 1802, "Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes," interprets and makes specific the laws governing the "place of sale" for purposes of allocating local tax revenues to local jurisdictions. Under paragraph (2) of subdivision (a), **if a retailer has more than one place of business** in this state which participates in the sale, the sale occurs at the place of business where the principal negotiations are carried on. Therefore, for purposes of the local tax, a concrete provider in this state with more than one place of business is required to allocate the local tax to the local taxing jurisdiction in which that sale was principally negotiated. If the sale was principally negotiated in a city or county other than where the concrete was actually delivered, the local tax is required to be allocated to that city and county in which the sale was principally negotiated.

Proposed Law

This bill would amend Revenue and Taxation Code Section 7205 to specify, for purposes of allocating the local sales tax on sales of concrete by a concrete batch plant in California by retailers with more than one place of business in this state, that the place at which the retail sale of that concrete is consummated is the point of manufacture of the concrete at the batch plant from which delivery of the concrete is made to the end-use customer.

The bill would become effective immediately but would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date.

COMMENTS

- 1. Sponsor and purpose.** This bill is sponsored by the cities of Beaumont and Moreno Valley in an effort to continue to receive revenues generated by concrete batch plants in their areas. At least one concrete manufacturer consolidated its sales operations, which shifted the revenue allocations from the cities in which its numerous batch plants are located, to the one location where all of its sales now take place.
- 2. The May 1, 2001 amendments change the bill's operative date.** To allow the Board sufficient time to notify affected retailers, this bill would become effective immediately but would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

3. **This bill could set a precedent.** Exceptions to the allocation procedures contained in the Bradley Burns Law have already been made for passenger vehicle leases and jet fuel sales. If this bill is enacted, other cities and counties that host delivery facilities (such as card-lock fuel stations) could ask for similar treatment, thereby further altering the long-standing, uniform, allocation principles contained in the Bradley-Burns Law.
4. **This bill would impact the local sales tax allocations for all concrete manufacturers.** While this bill was written to address one specific concrete manufacturers' proposed consolidation, it would have the effect of changing local sales tax allocations for all concrete manufacturers, whether or not sales had ever been negotiated at the batch plants.
5. **Related legislation.** Assembly Bill 66 (Chapter 1027, Statutes of 1998) amended Revenue and Taxation Code Section 7205 to provide a similar tax allocation provision for sales of jet fuel.

COST ESTIMATE

Minor administrative costs would be incurred in notifying affected retailers and jurisdictions, changing the regulation, reviewing schedules for proper allocation, and answering inquiries.

REVENUE ESTIMATE

Enactment of this bill would not increase or decrease current taxable sales revenue, but would result in the shifting of local sales tax from one local jurisdiction to another. However, since the law prohibits the Board from divulging confidential information regarding taxpayers who report tax to the Board, and an individual taxpayer could be identified by any dollar figures provided, the Board cannot divulge the actual amount of revenues that would be shifted if this bill were enacted.

Analysis prepared by:	Laurie Patterson	324-1890	05/07/01
Contact:	Margaret S. Shedd	322-2376	

G:\legisat\senbill\1114-2lp

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.